

CONCLUSION OF MORNING  
BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CONGRESSIONAL ACCOUNTABILITY  
ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2) to make certain laws applicable to the legislative branch of the Federal Government.

The Senate resumed consideration of the bill.

Pending:

(1) Ford-Feingold amendment No. 4, to prohibit the personal use of accrued frequent flier miles by Members and employees of the Congress.

(2) McConnell amendment No. 8 (to amendment No. 4) to prohibit the personal use of accrued frequent flier miles by Members and employees of the Senate and clarify Senate regulations on the use of frequent flier miles.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

## AMENDMENT NO. 9

(Purpose: To express the sense of the Senate with respect to a timetable for the Senate's prompt consideration of comprehensive gift ban legislation)

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, before I send my amendment to the desk, let me one more time thank my colleague, the Senator from Iowa, for his leadership on this Congressional Accountability Act. I think it is a very important piece of legislation. I am certainly confident that by the end of the day we will indeed vote on this important piece of legislation and it will be a very strong affirmative vote.

Mr. President, before I send my amendment to the desk, I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, let me just briefly give some background and talk about the amendment.

This amendment essentially says is that it is the sense of the Senate that the Senate should consider comprehensive gift ban legislation no later than May 31, 1995.

At the end of last week, the Senate defeated a tough comprehensive gift ban amendment that was offered by Senator LEVIN, myself, and Senators FEINGOLD and LAUTENBERG. I regret that my Republican colleagues were unwilling to move forward on this piece of legislation which I think had everything in the world to do with congressional accountability. My Republican colleagues who opposed that amendment, even though many had co-

sponsored the same language just a few months ago, contended that it was more an issue of timing.

But it did seem to me then and it seems to me now that if we could be ready to move forward this week on an extremely important piece of legislation dealing with unfunded mandates, that goes to the heart of the interrelationship between Federal and State and local governments, and goes to the very heart of what Federalism is about, we should be able to address this straightforward issue without a lot of further consideration. And if, in fact, my colleagues are willing to amend the U.S. Constitution with a balanced budget amendment with just a couple of weeks preparation, then it seems to me astounding that we are not willing to move forward on a very simple amendment that has everything in the world to do with reform, which just simply puts an end to this practice of accepting the gifts, perks, lobbyist-sponsored vacation travel, and the like offered by special interests.

This amendment, Mr. President, simply attempts to put the Senate on record formally in favor of returning to this issue promptly and acting on tough gift ban legislation no later than the end of May 1995, which the majority leader has indicated it was his intention to do.

Mr. President, the nice thing about this amendment is that it is consistent with the debate and the discussion that we had on the floor of the Senate last week. At that time, Senator COHEN, who has again provided a tremendous amount of leadership on these reform issues, said on the floor: "I intend to give Senator DOLE an opportunity to bring it up in a relatively short time," the gift ban. "He has not given me a specific timetable, but I would say within the next couple of months, I expect we will consider this legislation and any amendments that might be offered to it—and I suspect there will be amendments. There are people on this side that still do not agree with the provisions that we supported."

But, again, there will be action on this; it will be considered within the next several months.

Senator DOLE, the majority leader, came to the floor and said:

I certainly commend the Senator from Michigan, Senator LEVIN, for his leadership. But we believe there are some changes that could be made even in the gift ban. This amendment would not be effective in any event until the end of May 1995.

It would be my hope that by that time we will have even a better package.

So I really am essentially following the lead of the majority leader with this amendment. As he pointed out, our amendment would not have become effective until the end of May. I simply think that it is time now for the Senate to go formally on record that, in fact, we will take action no later than the end of May.

Mr. President, let me give this amendment a little bit of context, a brief history.

Almost 2 years ago, we started dealing with this problem of gifts being lavished on Members of Congress from outside sources. And I had an amendment which simply said lobbyists had to disclose specifically what these gifts were. I said at the time it was a first step, and I meant that.

Mr. President, that lobbying registration bill, with the amendment that I had to that bill, passed the Senate by a vote of 95 to 2. Months of waiting took place for the House to act on strong gift ban provisions as a part of the lobbying bill. Then, Senator LAUTENBERG, Senator FEINGOLD, and myself introduced a tough, comprehensive gift ban bill. We introduced a tough, comprehensive gift ban bill. Senator LEVIN's committee then held hearings and reported out a solid, comprehensive, more refined version of our earlier gift bans bill. Under Secretary LEVIN's leadership, we were able to beat back Senate amendments which would have weakened the bill. That bill passed last May by a 95-4 vote.

Prodded in part by this action, the House then acted on a reasonably tough version. A strong version came out of a House-Senate conference committee. Then the lobbying registration gift ban bill to which the gift ban was attached was killed in the last days of the session—I think based upon unfounded complaints by lobbying groups that were concerned about the registration part.

Legislation that we brought forward to the Senate floor last week was very similar to a Senate-passed version last year, and to the conference report; that is to say, the amendment that dealt with gift bans.

Now, Mr. President, on the merits of the gift ban, 37 Republicans, including the majority leader, cosponsored the same legislation. In other words, the wording of the amendment that we brought to the floor dealing with gift ban was essentially identical to the wording that the majority leader and 36 other Republican Senators had voted for last session.

Now, as I wrap up my remarks, and I am about ready to send the amendment to the desk, I make an appeal to my colleagues. I believe my colleagues when they say we are going to act on this. I believe them. But I want to ensure that we do not let this gift ban amendment, this gift ban legislation, slip by in the legislative rush of this session. Again, this is a simple amendment. It puts the Senate on record in favor of acting on a tough, comprehensive gift ban legislation no later than the end of May 1995, precisely what the majority leader has called for.

Mr. President, I do not think I need to again rehearse the substantive arguments in favor of enacting a tough, comprehensive gift ban. We have debated this legislation and we have debated this amendment more than once on the floor of the Senate. I will simply say this: The evidence is irrefutable that the giving of these special favors

to Senators and Representatives has only added to the deepening distrust that citizens have of this political process, of this congressional process. Despite assertions by my colleagues that we are completely unswayed by trips or fancy dinners, such gifts give the appearance of impropriety, and they erode public confidence in the Congress as an institution. Mr. President, they erode public confidence in each of us, personally, as representatives of our constituents.

I am sure many of my colleagues will agree that in any town meeting Senators hold, Senators hear about this and other reform issues from people in the country. They want to put an end to this practice, and clean up the system. Public trust in the Congress is at a historic low and demand for political reform is very high. Banning outside gifts would be an extremely positive signal that we could send to people in this country that we are serious about making this political process more honest, more open, and more accountable.

Mr. President, the amendment that I now send to the desk reads:

It is the sense of the Senate that the Senate should consider comprehensive gift ban legislation no later than May 31, 1995.

This is what the majority leader called for. This is what I believe we talked about last week. I am disappointed we did not act to approve the actual gift ban at the very beginning of the session. But I intend to come back at this issue until we are done.

I think it is extremely important that the Senate now go on record that we shall consider comprehensive gift ban legislation no later than May 31.

One final time, Mr. President, for my colleagues: There is no hidden agenda to this amendment. It is very simple. It is very straightforward. As a matter of fact, it simply is a confirmation of a commitment that I believe we made last week. Now, I call on all of my colleagues, I call on the U.S. Senate, to go on record that the Senate should consider comprehensive gift ban legislation no later than May 31, 1995.

Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 9.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . It is the sense of the Senate that the Senate should consider comprehensive gift ban legislation no later than May 31, 1995.

Mr. WELLSTONE. Mr. President, for the moment I yield the floor, and I reserve the balance of my time.

Mr. GLENN. Mr. President, I certainly support what Senator WELLSTONE is trying to do.

The gift ban is something we have tried to put through. There has been

controversy on it back and forth. He has kept on this, to his everlasting credit. I think it is good he brings it up.

I hope the majority, after checking with the leadership, might be able to accept this so that we do not have to go to a vote. I hope that will be acceptable to my distinguished colleague from Minnesota. I think, as I understand it, that is the process we are in now.

Mr. GRASSLEY. Mr. President, will the Senator yield?

Mr. GLENN. I yield to the Senator from Iowa.

Mr. GRASSLEY. Mr. President, I state that we are checking with the appropriate committees to make sure if any of those Members want to come and speak on this subject, as well as checking to see the leadership's position.

Then, as well, if it does not work out, I would like to have a unanimous-consent later on that. I would propose to have a vote on it immediately after the McConnell amendment, which takes place at 2:15.

Mr. GLENN. Mr. President, I yield the floor.

Mr. WELLSTONE. Mr. President, I thank my colleagues.

I will ask for the yeas and nays, and would like to have a vote on this amendment, and that vote take place at a convenient time.

Mr. President, let me right now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GLENN. Mr. President, will my distinguished colleague yield?

Would the Senator want the yeas and nays if the majority was going to accept it?

Mr. WELLSTONE. Mr. President, I would ask for the yeas and nays. I do want to have a recorded vote on it.

Mr. GLENN. That would sort of obviate the need for Members to try to accept it then, at this point.

Mr. WELLSTONE. Mr. President, I understood the Senator from Iowa to say there would be a vote.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. GRASSLEY. Mr. President, right now we are in the process of letting the appropriate committees know about the amendment, and reserving time for them to come over and debate if they want to debate. I do not know that there is any request for debate on it.

I am also checking with the leadership to see if there would be any obstacles to accepting the amendment. If we accept the amendment, we hope, then, that there will not be a vote on it. If the leadership does not want to accept the amendment, then I suggest that we vote on it immediately after the McConnell amendment, and we would have the yeas and nays.

Mr. WELLSTONE. Mr. President, will the Senator yield?

Mr. GRASSLEY. Mr. President, I yield.

Mr. WELLSTONE. Mr. President, I renew my request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WELLSTONE. I thank the Chair, and I thank my colleagues.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I understand the state of parliamentary procedure is that there is an amendment currently pending.

The PRESIDING OFFICER. Offered by the Senator from Minnesota.

Mr. KERRY. I ask unanimous consent that that amendment be temporarily set aside for the purpose of consideration of another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 10

(Purpose: To restrict the use of campaign funds for personal purposes)

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 10.

Mr. KERRY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

#### SEC. . RESTRICTIONS ON PERSONAL USE OF CAMPAIGN FUNDS.

Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended—

(1) by striking "Amounts received" and inserting "(a) Amounts received"; and

(2) by adding at the end the following:

"(b)(1) Any candidate who receives contributions may not use such contributions for personal use.

"(2) For purposes of this subsection, the term 'personal use' shall include, but not be limited to—

"(A) a home purchase, mortgage, or rental;

"(B) articles of clothing for the use of the candidate or members of the candidate's immediate family (other than standard campaign souvenirs, articles, or materials traditionally offered or provided in connection with bona fide campaign events);

"(C) travel and related expenses that are substantially recreational in nature;

"(D) entertainment, such as sporting events, theater events, or other similar activities, except when offered or provided by the campaign in connection with a bona fide campaign fundraising event;

"(E) fees or dues for membership in any club or recreational facility;

“(F) automobile expenses within the Washington, D.C. metropolitan area (except that a candidate whose district falls within the Washington, D.C. metropolitan area, may lease automobiles used for campaign purposes consistent with subparagraph (G));

“(G) any other automobile expense, except that a campaign may lease automobiles for campaign purposes if it requires that, if the automobile is used for any other incidental use, the campaign receives reimbursement not later than 30 days after such incidental use;

“(H) any meal or refreshment on any occasion not directly related to a specific campaign activity;

“(I) salaries or per diem payments to the candidate; and

“(J) other expenditures determined by the Federal Election Commission to be personal in nature.

“(3) Any personal expenditure described in paragraph (2) shall not be considered to be an ordinary and necessary expense incurred in connection with a Member's or Member-elect's duties as a holder of Federal office.”.

Mr. KERRY. Mr. President, I rise today to offer an amendment that, at first blush, some might try to argue does not belong on this bill because it addresses one facet of campaign finance reform. But I want to make it very clear at the outset that this amendment is not broad-based campaign finance reform. It is a small reform which we adopted by voice vote previously last year. I think it was offered in similar form by the Senator from Arizona, Senator McCain. I believe that, indeed, it is appropriate to join it with the issue of congressional coverage, and that it therefore is fully appropriate to offer it as an amendment to this bill.

This amendment asks us to behave like other Americans. In the spirit of reform that has been so embraced in the House of Representatives, in the spirit of reform that is at the center of the efforts of this Congress to try to respond to the mandate of the election, and in the spirit of reform that I believe is at the center of all of the dynamics of our politics today, this amendment is relevant and germane and important.

What this amendment seeks to do, simply, is to make it illegal to convert campaign funds to personal use. This is not campaign finance reform as much as it is an effort by the Congress to say we are going to behave like everybody else in this country, and everybody else in this country does not have the ability to go out and ask people to donate money for one purpose and then turn around and decide, with enormous discretion, to spend that money for entirely different purposes—and, in fact, for personal gain and benefit.

The amendment is based on the proposed rules addressing the same subject published by the Federal Election Commission late in 1994. It would close the loopholes by prohibiting personal use of campaign funds and by setting forth a clear definition of what constitutes personal use. And most important, Mr. President, it prohibits a candidate from drawing a salary from his or her own campaign funds.

I believe that this amendment is synchronized with the effort to lift this institution out of the morass of partisanship and out of the morass of disdain with which most Americans have viewed in recent years.

While I have been deeply involved in campaign finance reform and it has been one of my principal areas of legislative focus since I was elected to this body—indeed, it was the subject of one of the very first pieces of legislation that I introduced, and I will continue the fight for comprehensive campaign finance reform this year—I emphasize this amendment is not bringing a broad-based campaign finance reform proposal. I understand from Majority Leader DOLE that there will be a time for that later in the year, though it cannot come soon enough as far as this Senator is concerned.

But I do believe this is an opportunity for us to make an important change in the way campaign funds are used while simultaneously making a statement fully in keeping with the spirit of congressional coverage legislation. The bottom line of that legislation is an effort to say to Americans: Congress ought to live by the same standards as all other Americans. And this seeks to say that our management of campaign funds given to us for the specific purpose of campaigning should entail an explicit responsibility to spend that money for campaign purposes—that it should not be taken to buy Super Bowl tickets, or to pay for trips to places that many hard-working Americans would like to go but cannot afford to go, under the guise of some kind of campaign effort. It certainly should not be used by a candidate to pay himself or herself a salary, particularly a salary that might be in excess of what that candidate was able to earn in the marketplace or was previously earning. Each of those activities is outside the norm of life for the great majority of Americans. They are activities that are available to people in Congress only because they are in Congress and are raising large amounts of money necessary for campaigns under our current system of campaign finance.

When the Federal Election Commission was considering the new rules on this subject which it proposed late in 1994, the Sacramento Bee newspaper said:

The FEC should approve them. Most important, for the vast majority of those in Congress who are honest public servants who are at times genuinely confused about the proper use of campaign funds, the rules provide some guidance.

That is what we seek to do here, provide some guidance in order to help Members to live up to reasonable standards.

The Chicago Tribune said:

Despite a 15-year-old Federal law that bars candidates from converting campaign funds to personal use, the Federal Election Commission has never offered rules on what personal use is.

And the New York Times said:

The law should be revised.

This amendment does exactly that. It ends the confusion, it defines personal use, and it revises the law. I hope my colleagues will support it. I want to make it clear that there is an awful lot more to do than just this on campaign finance reform. We passed major legislation last year. Regretfully it got caught up in House politics and later in Senate politics and the American people were cheated of the most far-reaching and important campaign finance reform in the history of this country. This is vital legislation because I think every American understands that underneath the term limits movement, underneath the disdain for Congress, underneath the sense of a lack of access to the U.S. Congress, underneath the feeling of powerlessness and the great gulf between elected officials and the people, there is one source that is to blame more than any other. It is money—the money used for campaigning for elective office. Money is moving and dictating and governing the process of American politics, and most Americans understand that. The reason so many people find it hard to run for office and keep our democracy vibrant is because of the extraordinary cost.

So we have a great task ahead of us in order to pass a comprehensive campaign finance reform law and in order to avoid the increasing perception of the American people that no matter what they do, Congress seems wedded to interests that have money and somehow divorces itself from the real concerns and aspirations of the American people. So I hope this small measure—which is aimed at helping us to live under the same rules as do the rest of Americans—will be accepted by the majority and it will not need a rollcall vote. But in the event that it does, I, at this time, ask for the yeas and nays, which I certainly will be happy to vitiate should it be accepted.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KERRY. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, let me rise to strongly support the proposal by the distinguished Senator from Massachusetts. We have had this before us several times, as to what kind of limitation we should put on funds that are gathered for specific purposes and wind up being used for other purposes; where money that was given for a particular election use winds up feathering the nests or lining the pockets—however you want to say it—anyway, being used by the former candidate for his or her own personal use. That was not the intent of the giving in most cases, that the funds could be converted for that purpose.

That is what the Senator addresses, basically. This is a small step forward. It does not try to encompass all of the

difficulties involved with the problems of campaigns and campaign finance reform. It is a small step forward, and I hope we will have support on both sides of the aisle for this, so I rise to support the proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, once again I express to my colleagues the desire that we not put amendments on this bill that will possibly be able to be discussed later on in this session on the floor of the Senate when offered to bills more germane to the subject, in this particular case campaign finance reform. In the case of the Wellstone amendment it would be the gift ban.

This is a bill that is very basic and easily understood. The underlying bill I introduced, and Senator LIEBERMAN has been my Democratic counterpart, is a bill that is going to end the situation where we have a dual set of laws in this country, one for Capitol Hill and one for the rest of the country. We think there is a consensus on this. There is very little discussion on the underlying legislation. Before this day is out we hope to have this legislation become the law of the land by being able to pass it here, the House having agreed to it, and immediately getting it to the President of the United States.

There is nothing wrong with the proposals the Senator from Massachusetts presents to us in the way of campaign finance reform, only that it is being offered as an amendment to a bill that otherwise is basically noncontroversial. It will not pass unanimously, I know, but there is a fair consensus because it tries to correct a situation that we all agree for too long has been unjust, a situation where the laws that apply to the private sector do not apply to Congress and Capitol Hill.

So I hope we can get these amendments behind us and move on. I do not say to the Senator from Massachusetts that his subject should not be discussed or that there is anything wrong with what he is proposing to do. I just think now is not the time to do it. The bill we are dealing with, the subject matter of the bill, in S. 2, passed the House of Representatives unanimously, with only about 20 minutes of debate, in the first day of their session. Senator DOLE set this bill for discussion on Thursday, the first day we were having legislative action. That is how important the leadership, the new leadership of the Senate, feels that this legislation is.

We discussed it on Thursday, on Friday, on Monday, and now Tuesday will be the fourth day. We have spent most of our discussion on this legislation on issues unrelated to congressional coverage—congressional coverage by these laws of our employees. I hope that we can get on with this legislation, that we will not accept this amendment, and that we will before the day is out get this bill passed. That will mean that we have spent 4 days on a bill that

the House of Representatives spent 20 minutes on.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I ask my colleague and others on the other side what it is of which they are afraid. I ask my colleague if my Republican friends are really in favor of reform. There is no strict formula by which we determine what legislation will be brought before the U.S. Senate, in what order it will be brought, or when it will be brought. Everyone serving in this body knows that. Where is it ordained that there is a better moment 5 months from now than right now to say to the American people we are not going to spend campaign money for personal use? Of what are those Members who oppose this amendment afraid? If they support it, why not attach it to this vehicle and make the statement of reform to the American people now? Why wait 5 months?

My colleague just stood up and said that the purpose of this legislation is to show Americans that we are prepared to live like they do. Why would you not want to attach to that bill a statement that we are not going to allow people to raise campaign funds to spend money in a way that no other Americans can spend money? I thought the Republicans who are the new majority party were the folks who are saying to the people back home, we are not going to do business as usual anymore in Washington; no more business as usual. But business as usual is coming to the floor and saying, "Oh, we are going to do this in 5 months; we are going to do this in 6 months." I note that this is coming from the very people who filibustered the last round of campaign finance reform and who saw their President, President Bush, veto the bill that was passed 2 years ago.

So here is a chance to demonstrate to the American people whether we really are just rhetorically talking about reform and are just going to do the kind of pushbutton, feel-good things that happen to appeal to one party but do not constitute basic reform. What could be simpler than a fundamental principle that people who run for political office are not going to spend their campaign funds for personal use, are not going to go out and buy clothing with campaign funds, and are not going to pay for a trip to the Super Bowl with campaign funds?

I have a lot of workers in Lynn, MA, or in Fall River or New Bedford who dream about buying new clothes or going to the Super Bowl but who do not have campaign funds with which to do so.

So here we are with an opportunity to say to the average American we are going to live just like you do, we are going to spend our campaign money strictly on campaigning. Is that frightening? But we are being told by those on the other side of the aisle that

somehow such a proposal does not belong on a bill that is specifically geared to requiring Congress to live like the rest of America.

So what we are seeing, Mr. President, is that there is a difference between the reality and the rhetoric once again. Some people are prepared only to talk a good game about reform. Is there anybody here who truly disagrees that campaign funds should not be spent on personal use? My friend from Iowa talked about a consensus. Is there really not a consensus in the Congress that campaign funds should not be spent on personal use? I would think there would be 100 votes to support that.

Let us put that to the test. I think we ought to find out whether there are 100 votes for that proposition.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER OF PROCEDURE

Mr. LEAHY. Mr. President, I ask unanimous consent that it be in order to set aside the pending amendment so that I might offer an amendment.

Mr. GRASSLEY. Mr. President, has the unanimous-consent request been agreed to?

The PRESIDING OFFICER. No, it has not.

Mr. GRASSLEY. Senator MCCAIN was on his way over to speak on the Kerry amendment. Could we wait for that?

Mr. LEAHY. Of course, I would be happy to. I should say to my friend from Iowa that I will probably take only 3 or 4 minutes. I wonder if I might go forward and I would be happy to immediately yield to Senator MCCAIN when he arrives.

Mr. GRASSLEY. Would Senator MCCAIN be able to get the floor?

Mr. LEAHY. Oh, yes. I would yield. Give me about 20 seconds after he motions that he wants it and I will yield to him.

Mr. GRASSLEY. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Thank you.

#### AMENDMENT NO. 11

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 11.

At the end of the bill, add the following, "No congressional organization or organization affiliated with the Congress, may request that any current or prospective employee fill out a questionnaire or similar document in which the person's views on organizations or policy matters are requested."

Mr. LEAHY. Mr. President, let me explain why I have done this. I remember when I first came to the Senate, I think within the first year or so I was here, I introduced legislation saying that I wished all laws would be applied to Members of Congress that apply to everybody else. The Senator from Ohio [Mr. GLENN] has been doing the same for years, and Senator GRASSLEY from Iowa has been doing the same for years. I think we have joined as co-sponsors of each other's legislation. But I remember giving an eloquent speech—as I thought anyway—as a young Member of the Senate, on a Friday as I recall, about why we should apply all the same laws to Members of Congress. As I was leaving, one of the older Members of the Senate, a very senior Member of the Senate, said, "Where are you going?" I said I was heading to the airport to catch a plane back to Vermont. His response was, "Good. Stay there." The legislation was not greeted with enormous enthusiasm. I know the Senator from Ohio and the Senator from Iowa have experienced similar things—we have commiserated with each other about it—the latest being even on Sunday when the Senator from Ohio and I had a chance to join each other for lunch. But what I want to do is give employees of the Congress the same protections available to other workers in the Federal Government and private sector.

As we changed from the majority to the minority, the new majority came in and, as is perfectly appropriate, they did a great deal of new hiring. I have no problem with that. I have been here in the majority and then the minority, and I have gone back and forth four times. I know a lot of staff changes with that. But I was surprised by news reports that the Republican Study Committee required prospective congressional employees to take an ideological litmus test, not so they could be hired but they had to take it before they could even be listed with a placement service.

Mr. President, I think Senators know me well enough to know this is not partisan. I would object to this whether Republicans or Democrats did it. I do not know whether these questionnaires are legal under Federal laws or the rules of the Senate, but they smack of McCarthyism while I was a teenager during the fifties. I know enough about McCarthyism to know how destructive to human beings and the sense of the public comity loyalty oaths can be.

I have a copy of the questionnaire, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### REPUBLICAN STUDY COMMITTEE—ISSUES QUESTIONNAIRE

The following questions are designed to assist us in placing you with an office in which you are most compatible. If you tend to agree with the statements put a "Y" in the blank. If you tend to disagree with the statement, put a "N" in the blank.

#### DEFENSE/INTERNATIONAL

\_\_\_ The United States devotes too great a portion of its budget to defense spending in the post Cold-War era.

\_\_\_ The U.S. should not move to deploy current SDI technologies. SDI is better off as just a research program.

\_\_\_ Homosexuality is compatible with service in the U.S. military.

\_\_\_ A strong Israel is vital to American interests in the Middle East.

\_\_\_ The U.S. should get approval from the United Nations before engaging in any military action abroad.

#### SOCIAL/DOMESTIC

\_\_\_ The death penalty should never be available as a sentencing option for federal crimes.

\_\_\_ Additional restrictions on handguns are needed to reduce the murder rate in the U.S.

\_\_\_ Abortion should only be allowed in cases of rape, incest, or to protect the life of the mother.

\_\_\_ Membership in a union should be at the option of the employee and not a requirement for employment.

\_\_\_ Members of disadvantaged groups should be given preference in hiring and admissions in order to correct for past inequities.

\_\_\_ Voluntary prayer should be allowed in schools.

\_\_\_ Public health concerns should take precedence over civil rights concerns in dealing with the current AIDS crisis.

\_\_\_ Abortion should be viewed as a woman's right to control her own body.

#### BUDGET/ECONOMY

\_\_\_ Restrictions on imports are an effective tool to protect U.S. jobs and improve the economy.

\_\_\_ The threat of global warming requires strict limits on carbon dioxide emissions.

\_\_\_ Health care is a fundamental right which the U.S. government should guarantee to every citizen.

\_\_\_ Congress should enact a Constitutional Amendment to require a balanced federal budget.

\_\_\_ Congress should enact higher taxes as long as the revenue is earmarked for deficit reduction.

Following are a number of organizations and people involved in public policy. Indicate your general agreement with a (+) and general disagreement with a (–), or leave the space blank if you have no opinion.

- \_\_\_ American Civil Liberties Union.
- \_\_\_ Common Cause.
- \_\_\_ National Right to Work.
- \_\_\_ National Education Association.
- \_\_\_ National Organization of Women.
- \_\_\_ National Right to Life Committee.
- \_\_\_ Planned Parenthood.
- \_\_\_ National Rifle Association.
- \_\_\_ Sierra Club.
- \_\_\_ United Nations.
- \_\_\_ Al Gore.
- \_\_\_ Jesse Helms.
- \_\_\_ Ted Kennedy.
- \_\_\_ Dan Quayle.
- \_\_\_ Bob Dole.
- \_\_\_ George Bush.
- \_\_\_ Newt Gingrich.
- \_\_\_ Richard Gephardt.

#### REPUBLICAN STUDY COMMITTEE

#### (MEMORANDUM)

To: Job Seekers.

From: Grace L. Crews, Job Bank Coordinator.

This is just a brief note to explain the RSC Job Bank to you. The RSC is a Republican research organization which exists solely for the aid of its members.

The RSC provides numerous services for its members including the Job Bank. When a member calls with a job vacancy, he/she gives us the description which includes title, duties, salary, contact, etc. We then refer resumes of qualified applicants to them for their consideration. If they are interested, they will contact you. You will not receive a call from us. Because most of our members prefer it, we never disclose the location of a vacancy.

Rest assured that the RSC wants you to find a job. We will do everything possible to aid you in your search. However, we cannot guarantee you a job, and we do not know of all the jobs on the Hill. Therefore, we ask that you do everything you can to aid in your search.

Because we receive so many resumes, it is impossible for us to keep in contact with you. Therefore, we ask that you keep in contact with us by letting us know when you have found a job or if you are still looking. If we do not hear from you within three (3) months, we will discard your resume. If you are still looking after that, you will have to give us a new one.

And now, for some important advice. Be flexible. We would all like to start at the top—very few of us get the chance. Be willing to do whatever it takes to get that Hill experience, even if you have to open mail for someone for a while. Don't price yourself out of the market. Be willing to negotiate salary. If you turn down a job because you think you are worth more than the Congressman is willing to pay, you may find yourself looking longer than you anticipated.

The RSC wishes you the best in your search for employment on the Hill.

#### JOB PLACEMENT INFORMATION

Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Street: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_  
Work Phone: \_\_\_\_\_  
Home State: \_\_\_\_\_

Position(s) Desired: (You may circle more than one.)

Chief of Staff/AA.  
Legislative Counsel.  
Committee Staff.  
Legislative Director.  
Legislative Assistant.  
Legislative Correspondent.  
Press Secretary.

Caseworker.  
Office Manager.  
Scheduler.  
Receptionist.

Systems Manager.

If applying for a clerical position, please indicate your appropriate skills:

Typing (wpm).  
Shorthand (wpm).  
Computer system(s) & applications.  
Salary Range: \_\_\_\_\_ to \_\_\_\_\_.

Ideology: Do you consider yourself (please circle one): conservative moderate liberal.

Campaign Experience: Yes ☐ No ☐.

Fundraising Experience: Yes ☐ No ☐.

Hill Experience: Yes ☐ No ☐.

Press Experience: Yes ☐ No ☐.

Senior Management Experience: Yes ☐ No ☐.

Speech Writing Experience: Yes ☐ No ☐.

Issue(s) Expertise: \_\_\_\_\_

Security Clearance: Yes ☐ No ☐ Level \_\_\_\_\_

Would you like this inquiry kept confidential? Yes ☐ No ☐.

Please send this information sheet, a copy of your updated resume, the questionnaire,

and a list of references to: Republican Study Committee, 433 Cannon HOB, Washington, D.C. 20515 or fax it to (202) 225-8705. Should you have any questions, please call (202) 225-0587.

REPUBLICAN STUDY COMMITTEE  
INSTRUCTIONS FOR RSC JOB BANK

- (1) Please read top sheet and fill out both the application and issues questionnaire.
- (2) Attach résumé between application sheet and questionnaire with paper clip.
- (3) Place in designated box.

Mr. LEAHY. This legislation is designed to give the employees of the Congress the same protections that are available to other workers in the Federal Government and the private sector.

I was surprised by recent news reports that the Republican Study Committee required prospective congressional employees to take an ideological litmus test before they could be listed with their placement service.

I do not know whether such questionnaires are legal under Federal law or under the rules of the Senate. I do know, as one who lived through the McCarthyism of the 1950's, how destructive, to both human beings, and to the sense of public comity, loyalty oaths can be.

That is why I requested a copy of the questionnaire and related materials. Let me take a few minutes of the Senate's time to describe what I found.

The Republican Study Committee, an organization of the House of Representatives, which among other activities, provides an employment service for persons who are applying for jobs with Republican Members of the House. It provides prospective employees with a set of materials which includes a questionnaire. This questionnaire asks a large number of very definitive policy questions about a prospective employee's views.

For example, it asks questions about the applicants' views on abortion, school prayer, and AID among others.

It also asks whether the applicant is in general agreement with ACLU, National Right to Work, NEWT GINGRICH, TED KENNEDY, or RICHARD GEPHARDT. Apparently new litmus tests to judge an employee's political correctness are now in order.

Of course, these questions are "designed to assist in placing you with an office in which you are most compatible."

The reality is that these kinds of questions are getting close to loyalty oath type questions of the 1950's.

Soon will employees be asked, "Are you now or have you ever been a member of Common Cause?"

"Are you now or have you ever been a member of Planned Parenthood?"

"Are you now or have you ever been a member of the Sierra Club?"

Are we on the way to a new type of politically correct rightwing thinking?

This questionnaire is not new. One of my current employees encountered this questionnaire when she was looking for an entry-level job on the Hill over 3

years ago. More concerned about being a part of the democratic process than in ideology she applied at both Democratic and Republican service offices. What kind of signal does the RSC questionnaire send to prospective employees like her? Clearly, it strikes a blow at the idealism of our young people and discourages them from participating in the democratic process.

This is not a difficult issue to decide. The public wants an end to partisan politics, and this litmus test is nothing but partisan.

We want to encourage our youth to participate in the democratic process, this litmus test destroys the idealism of our youth.

The Republican leadership has pledged to make Congress be held to the same laws as it imposes on others, this litmus test flies in the face of that pledge.

Above all there is too often a sense of intolerance in the tone of debate in this country. We see this in tone in the abortion clinic shootings and bombings and when talk show hosts insult the President's wife.

I will not stand quietly and let a new "McCarthyism" take hold of this institution.

Mr. President, I will close with this: I have no problem with any Member, Democrat or Republican, wanting to hire staff that bears their views. I must say that in my own staff, I do not know whether most of the people in my office are Republicans or Democrats, unless they have been involved in something where they have made it clear to me. I know that I have hired people who were identified as Republicans back home, as well as identified as Democrats. I do not know what they belong to. I just do not want us to do things that would never be allowed at IBM, or Monsanto, or any other company.

I do not want to get into a litmus test for people even to be able to make a job application, because there are so many extremely good men and women in this country who should have an opportunity to seek jobs in the Congress if they want. But they should not have the door closed in their faces initially because they do not pass a particular litmus test.

I will ask the floor managers something and then I will yield to Senator MCCAIN. What happens with this amendment? Should we ask for the yeas and nays? What has been the process? I have been off the floor.

Mr. GRASSLEY. The yeas and nays have been requested on most amendments.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. As I understand it, these votes will be stacked.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona [Mr. MCCAIN] is recognized.

AMENDMENT NO. 4

Mr. MCCAIN. I take the floor this morning, Mr. President, to comment on both the amendment of the Senator from Kentucky, Senator FORD, concerning the frequent flier, frequent travelers benefits and its application to Members of Congress, as well as the Kerry amendment concerning personal use of campaign funds. The reason I do so is because I have been involved in both issues to a significant degree.

First of all, on the issue of the amendment by Senator FORD, Mr. President, I point out that in the legislation passed in the last Congress, the Federal Acquisition Streamlining Act conference report, my amendment, which appears on page 130 of the conference report said, "Requirement: Any awards granted under such a frequent traveler program accrued through official travel shall be used only for official travel."

I see my friend from Ohio on the floor. If I can get the attention of the Senator from Ohio, I would appreciate it, since I am asking, and I know there were many aspects of this legislation he was responsible for, which I think was a landmark piece of legislation, the Federal Acquisition Streamlining Act. An amendment of mine was included in that, which said:

Requirement: Any awards granted under such a frequent traveler program accrued through official travel shall be used only for official travel.

I do not know if the Senator recollects that or not. From the nodding of his head, I see that he recalls that. Does the Senator recollect, also, that at that time it was mine, his, and Senator ROTH's understanding that it would apply to Congress as well as Federal employees?

Mr. GLENN. I would respond to my good friend by saying I think it should. We discussed that at the time, as I recall, and our exact reasoning why we did not make it apply that way, I do not quite recall at the moment. Looking at what is in the procurement bill this morning—and I think you have a copy—I would like to see that same provision go all across Government and apply to everybody. We gave some time to work this thing out.

In that procurement bill, section 6008, entitled "Cost Savings for Official Travel," it says:

(a) Guidelines: The Administrator or General Services Administration shall issue guidelines to ensure that agencies promote, encourage, and facilitate the use of frequent traveler programs offered by airlines, hotels, and car rental vendors by Federal employees who engage in official air travel, for the purpose of realizing to the maximum extent practicable cost savings for official travel.

It goes on to say:

Any awards granted under such a frequent traveler program accrued to official travel shall be used only for official travel.

I think it should apply across the board. We gave them 1 year to report on how they would enact this. I would like to see that same thing applied all



across Government. We were discussing this morning whether to try to put this in as an amendment to this bill or subsequent legislation. The same thing should apply, and the Senator is absolutely correct.

Mr. MCCAIN. Also, I remind my friend, Senator GLENN, that there was a colloquy between him and Senator ROTH, with the understanding that this particular provision would apply to Congress. Since then, it has been interpreted as not applying to Congress. And that is wrong, in my view.

I agree with the Senator from Ohio that it should apply to Congress. I believe that Senator FORD in bringing it up is entirely correct in doing so, because if we are going to take advantage of frequent traveler programs, those advantages should not then accrue to the personal use of Members of Congress.

So I would say I regret that the interpretation of what was already in law did not apply across the board to Congress. I think that it should in the future, and I believe the Ford amendment should make it applicable.

I also want to talk about the Kerry amendment here, which applies to the use of campaign funds for personal use. Last year, Mr. President, in the consideration of the campaign finance reform bill, I proposed an amendment prohibiting the use of campaign funds for personal purposes. Then Senator Boren, the manager of the bill, accepted that provision. And, obviously, as we know, the campaign finance reform bill never went anywhere. I applaud Senator KERRY for bringing up this issue. The fact is that there have been outrageous and incredible abuses of the system. On several occasions I talked about some of these abuses on the floor of the Senate, and it is part of the CONGRESSIONAL RECORD of May 25, 1993. I talked at length about it, as I did several other times.

Mr. President when people are using campaign money to commission artists to paint portraits of their father, thousands of dollars to decorate Senate offices, \$6,000 on furniture and picture framing, \$4,494 for an illuminated globe, resort vacations, and on and on and on, it is not only an abuse, but it is an outrage.

I intend to vote on the majority side to table both of these amendments. But I say to my Republican colleagues on this side of the aisle, the reason the American people voted as they did on November 8 is that they are fed up with the abuses, such as the personal use of campaign funds, such as frequent flier mileage and frequent traveler mileage, going for personal use. These must be addressed.

Now, I understand the desire of the majority, and I will accede to the desire of the majority, to table these so that we can get a bill through Congress.

If I had been writing the legislation, I say to my friend from Iowa, I would have included these, because they are

needed reforms. They are the things which the American people, when they hear about them, are simply outraged, and they are not going to put up with it any longer.

So I say to my friends on this side of the aisle, speaking for only one individual Senator, if these reforms are not brought up in a reasonable time, meaning this year, and implemented, I will join with my colleagues on the other side of the aisle, whose newfound scheme for reform I applaud vigorously. But we cannot, by virtue of being in the majority, lull ourselves into a sense of complacency, into believing that issues such as personal use of campaign funds, such as the personal use of frequent flier mileage which is accrued through official business and used for personal use, are going to be acceptable to the American populace. It is not like that anymore.

So I strongly urge my colleague from Iowa, who is the manager of this bill—and I appreciate his enormous efforts on behalf of this legislation—to give serious consideration to bringing forward additional legislation at the appropriate time, in a timely manner, that addresses these and other issues that are being raised by my colleagues on the other side of the aisle.

So, Mr. President, I will not go on and on and specify the abuses, especially of the personal use of campaign funds. I did that last year on several occasions. Those abuses are well known, and they have to stop. I think we have to address it very soon.

Again, I congratulate my colleague from Iowa for his very hard work on this very important legislation. I look forward to supporting him. But again, we have to address all of these abuses and we have to do it soon.

Mr. President, I yield the floor.

Mr. FEINGOLD. Mr. President, I would like to commend the distinguished ranking member of the Rules Committee, Senator FORD, for his efforts in raising this issue and shedding some light on an inappropriate practice in which some elected officials have apparently been engaged.

Quite honestly, in my 2 years as a Member of the U.S. Senate, I do not believe we have had a vote that should be so straightforward for Senators to case as the vote on this amendment. In fact, this issue and this amendment can be summed up with one question: Should federally elected officials, who are well-compensated and receive ample health, retirement, and other such benefits, be allowed to take free frequent flyer trips at taxpayer expense? Some might suggest that I have just oversimplified what this issue is about. But I'm not oversimplifying the issue—it is that simple.

Mr. President, I am not aware of any public polling on this frequent flyer issue. But I am going to make a bold prediction here. Let's say you posed the following choice to 1,000 randomly selected individuals: If federally elected officials earn frequent flyer awards

from travel that is paid for with taxpayer dollars, they should use the free travel award to: One, take a vacation; or two, save taxpayer dollars by using the award for future official travel expenses. I am willing to predict the vast majority would pick number two.

Last night, during debate on this amendment, the distinguished Senator from Iowa [Mr. GRASSLEY] argued that we should not dictate to the House of Representatives what their rules should be. The Senator from Iowa went on to say that we shouldn't worry about the House because they were on the verge of making this rule change last August and will deal with the issue again.

I would like to share the Senator's confidence in the House leaders on this particular issue, but I am afraid I cannot. The Senator from Iowa is quite correct when he states that the House came close to changing this rule last August. But it is my understanding that effort, led by a freshman Representative, was derailed with the help of the then-minority whip, Mr. GINGRICH. If it was possible to prevent this measure from passing last year while in the minority party, how are we to expect Mr. GINGRICH to raise this issue in his new position as Speaker of The House?

In fact, I recall speaker GINGRICH's comments on a Sunday morning television program just a few short weeks ago. When pressed on the issue of the frequent flyer perk, Mr. GINGRICH responded by asserting something to the effect that if Congress was able to balance the budget, fight crime and reform the welfare system, then people did not care about issues such as the frequent flyer perk.

Though I certainly share the Speaker's concern that we must address issues such as reducing the Federal budget deficit, I strongly disagree with his view that the American people do not care about reforming the Congress and changing the way Washington, DC, does business. People do care about the many perks Members of Congress receive, whether it is the free meals, travel and other gifts that are showered upon Members by the lobbying community, or the practice of converting these frequent flyer miles earned while traveling on official matters to free vacation trips.

The underlying bill, which I support, is an attempt to make Congress live under the same rules as our constituents do. But our constituents do not receive free meals and gifts from lobbyists, and when they go on vacation or travel on a personal matter, they pay for it. These are the rules by which elected officials should abide. And if these rules are right for those in the private sector, and are right for the executive branch, and are right for the U.S. Senate, then they should be right for the House of Representatives.

Mr. President, let me just conclude by saying that I am sensing another partisan vote on this amendment, similar to the vote last week on the gift

ban amendment, and that is truly unfortunate. This is certainly not a partisan issue. The underlying bill will pass this Chamber with strong bipartisan support, and I am disappointed that further efforts to enact swift passage of critical reforms of our political system, such as banning gifts and changing the frequent flyer rule for elected officials, has fallen victim to the same partisan wrangling that has prevented such reforms from passing in previous years.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to say that I support the substance of both of the amendments that have been offered. But for reasons that are similar, really, and with the same sense of urgency expressed by my friend and colleague from Arizona and consistent with the position that my friend and partner on this underlying bill, S. 2, the Senator from Iowa, has stated all along, I will oppose these amendments, as I have all other amendments to this bill.

Mr. President, we have talked at length about the number of years that people have been working here in Congress to establish the basic principle of accountability. What I have said here earlier in this debate is kind of a reverse version of the Golden Rule, which is that we should do unto ourselves as we have done unto others for 10 these many years, and that is to live by the laws that we imposed on the rest of America.

Senator GLENN, among those who are here, in my opinion, holds the record for having started this campaign—perhaps “crusade” is a better term—earlier on in the late 1970’s. Senator GRASSLEY has been a leading and foremost advocate in recent years. It has been my privilege, over the last several years, to join with them, as a cosponsor of this bill with the Senator from Iowa in the last session of Congress, and a cosponsor again this year although, as I have indicated for the record, in the preceding session of Congress, this measure was known as the Lieberman-Grassley Act, and in this session it is known as the Grassley-Lieberman Act.

Whatever the name, the content and the purpose is the same. And it is the long overdue recognition that there is a double standard here that is no longer acceptable, that is unfair to our employees, and that shields us from the real world experience of understanding the impact of our deliberations and our actions on those millions of people out there, particularly small business people, who must live by the laws that we pass.

So when this debate began, Mr. President, I made a personal decision that when one considers the length of time that Congress has been aspiring to pass this measure, when one considers that

last year it swept, in a bipartisan basis, through the House, I think with perhaps four votes opposed to it, when one considers there seemed to be a strong bipartisan support for this here in this Chamber last year, but in the final day or two of the session it was stopped from being taken up by the use of a rarely used parliamentary point, I made a judgment as this session started that I was going to oppose all amendments to S. 2, the Congressional Accountability Act, that did not go to the heart and substance of this proposal but that were adding on additional thoughts, even if one could stretch and construe some connection to the basic purpose of eliminating the double standard in these employment and safety laws.

It has not been pleasant or easy to sustain this position. Some of these amendments are good amendments. But it seemed to me that—not only because of my personal involvement in this issue and my desire not to gum up the works as we move toward adopting it, but also as an expression here at the outset of the session that the support for this measure is genuinely bipartisan and has always been so and is bicameral, and in fact extends to the executive branch of Government, where President Clinton has consistently over the last couple of years, and as recently as the last few days, restated his position strongly supporting the adoption of the Congressional Accountability Act—it seemed to me, mindful of the election returns last November and fresh from my own reelection campaign, in which I heard the people of Connecticut certainly clearly saying to me that they do not really care that much anymore about what party label you wear, they care about what you have done or what Congress has done, that they want the nonsense and the gridlock to end; they want us to deal with some real problems, and they want us to shake up this institution and put some value into what we are doing here and not get into partisanship.

So in that sense, I made the judgment that the best that we could do was to adopt this, to not let anything stand in the way, and hopefully get it to the President—get it back to the House, let the House receive it in a form which they could adopt without the need for a conference committee—send it to the President, and let us show the American people that both parties, both Houses, and the executive and the legislative branch, agree on this basic principle. Let us get it done. If I may paraphrase an earlier great Democratic President, President Kennedy, who said, “A rising tide raises all boats,” part of what I am saying here is that a rising tide of accomplishment by Congress will, in fact, raise all boats.

This will not and should not be a partisan achievement, but very much a victory for principle, a victory for Congress, and a victory for the American

Government, showing it can quickly and expeditiously do something right. I wanted to state that on the record to explain why I voted against all previous amendments, why I will vote against these two amendments, and why I will continue to vote against amendments on this bill, hoping that we can pass this bill tonight or tomorrow and get it on its way to becoming the law it ought to be.

Mr. President, having stated that, I would like to respond to some of the points that have been made against the bill. I say to the two managers of the bill, the Senator from Iowa and the Senator from Ohio, if at any point either Senator would wish to regain the floor, or others come and wish to proceed on their amendments, I will be glad to yield upon notification to that affect.

Mr. President, some of the arguments made in opposition to S. 2 in the last couple of days are serious ones. I want to respond to them. One argument made goes to the heart of the construct of the bill that Senator GRASSLEY, I, and Senator GLENN, in his capacity as chair last year of the Government Affairs Committee, have brought out. The argument is that this bill—and forgive the pejorative use of the term, an excuse for inaction on this measure for years—this bill represents a violation or a potential violation of the separation of powers doctrine and the speech or debate clause.

I must say to the presiding officer and my colleagues that when I first arrived here, the first time this measure came up, I inquired why people were opposing it because it seemed pretty sensible that we should live by the same laws we apply to everybody else. The answer I heard was the separation of powers doctrine. I remember going back home to a town hall meeting and having somebody ask me about the measure, and I started to give the separation of powers doctrine response. It was a moment where the more I declared it, the less I believed it, remembering that old wisdom that, if you are making a statement that you yourself have trouble believing, you better not make the statement and you better reconsider your position.

I do not think this is a violation of the separation of powers doctrine. First of all, there is no express separation of powers clause in the Constitution. It is important to point that out. This is a doctrine that is said to underlie the structure of the Constitution. In fact, there is some obvious strength to that argument. The principle is most visibly seen in the separation of the powers of the three branches into three separate articles respectively. The doctrine is also discussed in the Federalist Papers, as well as other writings that informed the drafting of the Constitution.

The separation of powers doctrine has been the most frequently cited constitutional objection to private rights



of action in district court for our employees under this bill, as well as executive branch enforcement of the laws. Using this broad-based argument, I think, distorts the historical intent of the separation of powers doctrine. It is also not an adequate explanation for why we do not apply the laws we adopt to ourselves.

The basic idea, it seems to me, is to limit each branch to a certain set of powers subject to checks by the other two branches, so that no one branch can accumulate a level of power that becomes—to use the term that was very much in the mind of the Framers—tyrannical or like a monarch in its effect on the public or on individual American citizens.

The separation of powers principle was envisioned and incorporated into the Constitution by the Framers not explicitly but implicitly with the idea of precluding any one branch of the Federal Government from seizing a degree of power that could be used against the people of America in a tyrannical fashion without check by the other two branches of Government. However, it is clear from Madison's writing in *Federalist* 47 that the separation of powers principle was not designed to insulate one branch of the Government or its servants, that is to say, those who serve within that branch of Government, from the rule of law. That would have been a strange result for those who framed our Constitution and were so mindful of not insulating those in power from the rule of law.

Indeed, Madison wrote in *Federalist* 57 that:

The Congress can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interests and sympathy of sentiments of which few governments have furnished examples; but without which every government denigrates into tyranny.

What a magnificent statement by Madison, resonating with real insight and strength through the centuries to this debate on this floor of this great Chamber today in 1995.

Mr. President, in concluding my remarks on this question, I would like to note that it is the speech and debate clause, and that clause only, which provides Members of Congress any immunity whatever from prosecution or action by the executive or the judiciary. In the case of *Davis versus Passman*, a 1979 case, the Supreme Court held that while the speech or debate clause does protect Members of Congress from suit for actions which were strictly legislative in function—and I will discuss in a moment what the Court has defined as “legislative”—speech or debate immunity is the only source of immunity, not other principles of separation of powers as well. In short, the broad principle of separation of powers is meant to protect the

people from the Government, not to protect one branch of Government from the other two, nor to protect Members of Congress from prosecution or suit for their own misdeeds.

Mr. President, at the Governmental Affairs Committee hearing in June of last year on this measure, constitutional law professor Nelson Lund and our own Senate legal counsel, Michael Davidson, both said, while it may be constitutionally permissible to allow the executive branch to enforce employment laws on the legislative branch, this legislation recognizes, as a policy decision, not a constitutional decision, that allowing executive enforcement might upset the current balance of power between the executive and legislative branches.

So our goal in creating the independent Office of Compliance within this bill, S. 2, was to avoid, frankly, politically motivated enforcement actions by executive branch agencies. One cannot imagine—without regard, obviously, to the current occupant of the position—a Secretary of Labor ordering an OSHA inspection of a Senator's personal office because that Senator had aggravated that Secretary for some reason, perhaps by holding oversight hearings on the Department of Labor, or perhaps by casting a vote that displeased the Member of the Cabinet. I think you can see why, on a practical basis, this decision was made to set up the independent Office of Compliance. It is, really, more in deference to the checks and balances principle than to the separation of powers principle.

Now, Mr. President, let me speak for a moment about the speech or debate clause immunity which is in article I, section 6, of the Constitution.

I, frankly, think this provides the most interesting argument against executive branch enforcement or judicial review. But historically, it is important to state the speech and debate clause has been read narrowly by the courts, and our conclusion was that it should not and cannot provide Members of Congress with immunity for illegal employment actions, for illegal actions in our capacity as employers of those who work for and with us here on Capitol Hill. The speech and debate clause says:

They—

The Members of Congress—shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

The origins of speech or debate immunity can be traced to the formation of the English Parliament when members of Parliament sought to protect themselves from retribution by the monarch for speeches or acts in the House of Commons that were viewed as hostile to the crown.

Mr. President, in July of last year, the Court of Appeals for the D.C. cir-

cuit rejected a House Member's speech-or-debate-clause defense in a prosecution by the Justice Department. These cases are very recent. The U.S. District Court for the District of Columbia also issued a similar ruling, in the same week last year against a Senator saying the Department of Justice has the power to prosecute violations of Senate Rules Committee regulations, even when the Rules Committee itself has not concluded that a violation occurred.

In the first ruling, the appeals court cited several cases in which the Supreme Court had held that the speech-or-debate clause immunity extends only to acts that are “legislative in nature” or related to “the legislative process.” The defendant's alleged impropriety, the Court said, “was not related to a pending bill or to any other legislative matter; it was, instead, the Congressman's defense of his handling of various financial transactions.”

So I would say, drawing analogy from these cases and others I could cite, it is reasonable to assume that an illegal employment action would not be regarded by the courts as an act that is “legislative in nature.” In fact, this issue is thoroughly examined in a memo by John Killian, senior specialist, American constitutional law, American Law Division at CRS, dated June 4, 1993, in which Mr. Killian writes:

A persuasive argument can be made that the speech or debate clause does not encompass employment decisions.

While Mr. Killian prefaces his interpretation by noting that the constitutional text, history, purposes and the judicial precedents are not fully dispositive, “the text,” he says, “as informed by the interpretive judicial decisions does rather strongly suggest that the courts would sustain the validity of the enactment should Congress choose to take the step.”

He adds:

Certainly, an expressed decision made legislatively by Congress that employment decisions of Members can be placed outside coverage of the clause would be a determination by the body most familiar with the issue that should be entitled to special deference by the courts when they are called upon to pass on the question of the validity of congressional coverage under the appropriate statute.

Of course, this is just common sense that the speech-and-debate clause on its face would not seem to be a clause that would make us immune from the impact of the laws we adopt and impose on all other employers when we are acting as employers instead of as Members of the Congress involved in legislation.

Mr. President, I will go on to another argument that has been made a couple of times here on the floor; and that is that this bill, S. 2, will cost too much money. At times, opponents of congressional compliance have claimed that it would cost billions of dollars to implement and even require the construction of new office buildings. The testimony

that the Governmental Affairs Committee received last June, as well as CBO's analysis of the committee-reported bill, showed that such fears, while understandable, are unfounded. There is no OSHA space requirement for offices. Indeed, the Architect of the Capitol and the Congressional Budget Office both anticipated in their reviews of this legislation little, if any, additional expense for OSHA compliance.

Because this new bill, S. 2, was introduced just last week, we have not had time to receive a formal cost estimate from the CBO. But I suggest to my colleagues that it is fair and reasonable to assume from the CBO estimate of the bill reported by the Governmental Affairs Committee in September, since this bill is so close to that bill, that the original cost estimate would prevail for this as well.

We also received a cost estimate from CBO on last year's House-passed bill as well as the bill reported by the Senate Governmental Affairs Committee and the estimates CBO arrived at in both cases were far, far lower than anyone expected or thought possible.

Mr. President, at this point, I would like to submit for the RECORD those two cost estimates which I believe the Members may wish to peruse, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the estimates were ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, October 3, 1994.

Hon. JOHN GLENN,  
Chairman, Committee on Governmental Affairs,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4822, the Congressional Accountability Act.

Enactment of H.R. 4822 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM

(For Robert D. Reischauer, Director).  
Enclosure.

CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE, OCTOBER 3, 1994

1. Bill number: H.R. 4822.
2. Bill title: Congressional Accountability Act.
3. Bill Status: As ordered reported by the Senate Committee on Governmental Affairs on September 20, 1994.
4. Bill Purpose: H.R. 4822 would apply a host of employee protection laws to legislative branch employees and would create an Office of Congressional Fair Employment Practices (OCFEP) to enforce those protections. The board of directors of OCFEP would issue rules to apply the laws to the legislative branch, enforce those rules through inspections, and establish procedures for remedying violations of the rules. Most rules would take effect when the board issues them in final form, unless the House and Senate pass a concurrent resolution that disapproves them. Certain rules that, in effect, create new law would have to be en-

acted by the Congress and signed into law by the President.

In addition, H.R. 4822 lays out a four-step process by which employees can seek, redress if their rights under most of the employee protection laws are violated—counseling, mediation, formal complaint and hearing, and judicial review of the process. As an alternative to a formal complaint and hearing before the OCFEP, the bill would allow employees to take their case to a U.S. district court after the mediation step. The four-step process basically duplicates the process that the Senate already has in place for its employees, and would expand the options available to House employees who currently cannot present their case before an independent hearing board (because House hearing boards have consisted only of House employees) and who have no access to judicial review. Currently, few Congressional employees, and none in the House or Senate, have the option of taking their case to a district court (instead of formal complaint and hearing) as the bill would permit.

For certain laws, the bill would provide alternative procedures. For example, for violations of title II of the Americans With Disabilities Act (ADA) and the Occupational Safety and Health Act (OSHA), private citizens and Congressional employees, respectively, could ask the general counsel of OCFEP to investigate. The general counsel, in the case of ADA, could initiate the four-step process, or in the case of OSHA, could issue citations. In neither case could the employees take their complaints to a district court. (Under OSHA, private citizens also may not bring a complaint to court.)

If the appropriate entity, whether the OCFEP or district court, finds that an employee's rights were violated, it could enter an order for a remedy for the employee, subject to the availability of funds that may be appropriated by the Congress after enactment of H.R. 4822. The bill would establish separate settlement and award reserve funds in the House and the Senate to pay compensation that may be ordered as part of the remedy, and would authorize the appropriation of amounts necessary to pay compensation as ordered. Such appropriations would be the only source for paying compensation because the bill dictates that no compensation may be paid from the Claims and Judgments Fund in the Treasury.

5. Estimated cost to the Federal Government: CBO estimates that enactment of H.R. 4822 would cost about \$1 million in each of fiscal years 1995 and 1996, and \$4 million to \$5 million annually thereafter for the new OCFEP, for agency costs of negotiating with employees' bargaining units, and for paying compensation under remedy orders. Applying certain laws, such as the OSHA and the Fair Labor Standards Act (FLSA), to the entire legislative branch could result in some additional costs, but we do not expect such costs to be substantial. To some extent, the amount of such costs would depend on decisions to be made by the OCFEP as to precisely how the laws would apply to legislative branch employees.

#### BASIS OF ESTIMATE

##### Office of Congressional Fair Employment Practices

The primary budgetary impact of H.R. 4822 would stem from creating the new office to implement the employee protection laws throughout the Congress. Based on the costs of the Senate Office of Fair Employment Practices and of the Personnel Appeals Board at the General Accounting Office (GAO), CBO estimates that the OCFEP would cost an additional \$1 million in each of fiscal years 1995 and 1996. (The rules implementing all of the laws would be phased in and would

be in effect by the end of 1996.) The cost would be relatively small in these years because the office would be evaluating how to apply certain laws to the Congress. In subsequent years, the cost would increase to \$2 million to \$3 million annually because the office would have to implement enforcement procedures and arrange for OSHA inspections.

#### Settlement and Award Payment

The bill would authorize the appropriation of such sums as necessary to pay compensation to employees whose rights under H.R. 4822 are violated. Under existing law, if the rights that Congressional employees currently have are violated and the House or Senate Office of Fair Employment Practices orders payment of compensation, the Congress must appropriate funds to make the payment. Otherwise, an employee has no recourse to another mechanism to receive compensation. Based on the limited, recent experience of the House and Senate in paying compensation under existing employee protection laws, CBO expects that total compensation paid to legislative branch employees in some years could be between \$0.5 million and \$1 million. CBO assumes that the Congress would appropriate the necessary amounts. If the Congress does not appropriate sufficient funds, then there would be no mechanism to provide compensation ordered under the processes provided in the bill.

#### Federal Labor-Management Relations

H.R. 4822 would extend to all legislative branch employees the same right that the Government Printing Office (GPO), the Library of Congress (LoC), and executive branch employees currently have to organize, form bargaining units, select a union representative, negotiate with employers, and bring grievances to the Federal Labor Relations Authority (FLRA). (GAO already negotiates with its employees, but its cases do not go to the FLRA.) If employees in the House, Senate, the Architect, CBO, and the Office of Technology Assessment (OTA) were to decide to organize and force their employers to negotiate with various bargaining units, the employers would incur additional staff costs in order to meet their responsibilities under the law. Based on the experience at GPO and LoC, it appears that an agency with several thousand employees could spend \$200,000 to \$300,000 per year for a lawyer and part of the time of personnel officers who must work with the bargaining units. CBO cannot predict to what extent employees at the affected agencies would decide to take advantage of their opportunity to organize under this law, but even if a few did at each agency, total agency costs could be in the neighborhood of \$1 million annually.

#### OSHA Protections

H.R. 4822 would extend to all legislative branch employees the protections of OSHA, which requires a workplace free from recognized hazards. It is possible that application of OSHA standards could result in additional costs to remedy any violations, but it is likely that many of the major remedial actions would be done in any event.

*Industrial Settings.* Because most existing OSHA standards apply primarily to industrial workplaces, the employees and workplaces most likely affected by the bill would be those of the Architect of the Capitol. The Architect's office has stated in Congressional hearings that it already strives to comport with all relevant standards. The Architect employs several inspectors who visit all workplaces under the Architect's control to identify problems requiring remedy. Over the past several years, the Architect, sometimes with line-item funding direction from

the Congress, has undertaken many building improvement efforts, such as structural repair and electrical rewiring, in buildings of the House, Senate, and Library of Congress.

However, while the Architect might already be identifying big problems, small problems might still arise. In October 1992, GAO, at the request of the Congress, reported on violations of numerous OSHA standards by four employers in the legislative branch, including the Architect and the GPO. The employers not only agreed that the violations needed correction, but were able to do so at minimal expense. None needed to request additional funding to remedy the violations. Thus, it appears that the formal application of OSHA standards to the activities of the Architect is unlikely to add significantly to costs that would otherwise be incurred.

**Office Settings.** There are few OSHA standards that apply specifically to an office-type workplace, which is the type of environment most commonly founds in the Congress. For example, there is no OSHA standard guaranteeing employees a minimum amount of space and quiet in which to work (although there is General Services Administration guideline governing the maximum amount of space for executive branch employees so agencies do not consume too much space). Therefore, applying OSHA standards to the House, Senate, and other Congressional entities would not, by itself, necessitate construction of additional Congressional office buildings.

The few relevant OSHA standards relate to the proper location and use of wires, extension cords, electrical outlets, file cabinets, and clear walkways to protect employees against tripping, shocks, fires, falling objects, and blocked exits in case of evacuation. Because the Architect does not control the space where these hazards could occur, the rules issued by the board would likely make the employers—Senators, Representatives, committee chairmen, and agency directors—responsible. Complying with these standards probably would require a change in practices rather than significant additional space or cost.

Future OSHA standards for office-type workplaces could result in additional costs for the Senate. For example, OSHA is currently preparing regulations for ergonomic office equipment and furniture to protect employees against physical ailments resulting from inadequate lighting and positioning. In the absence of specific standards, CBO has no basis for estimating the cost of providing Congressional employees with furniture that would meet future OSHA requirements.

#### *FLSA Protections*

The FLSA requires employers to provide the minimum wage, equal pay, and time-and-one-half for overtime in excess of 40 hours in one week for certain types of employees. H.R. 4822 would require legislative branch employers to pay affected employees according to these standards. But Congressional employers would be allowed to grant compensatory time off (equal to one and a half hours of overtime worked) instead of overtime pay if the employee so chooses in advance of performing the overtime work. This provision would result in some combination of increased spending by Congressional employers because of overtime pay, and increased time off for certain employees who might opt for compensatory time instead of overtime pay. The impact of FLSA ultimately would depend on how the OCFEP defines which employees are to be covered by FLSA and on whether employees would choose overtime pay or compensatory time off. The bill would require the board to issue

rules that outline how the protections of the FLSA will apply.

If, for example, the board were to issue rules similar to the guidelines issued in 1991 by the Committee on House Administration (FLSA has applied to House employees since 1989), then FLSA would probably have little impact on the amount of additional leave employees would be able to take. It appears from the House guidelines and the amount of overtime paid to House employees in recent years (less than \$200,000 annually) that most House employees are exempt from FLSA and those who are not exempt do not work much overtime.

One group of employees that could potentially receive significant amounts of overtime pay would be the Capitol Police. Under current law, officers receive compensatory time for the first four hours worked in excess of 40 hours and then receive overtime for any additional hours. If all Capitol Police employees opted for overtime pay under FLSA for their first four hours of overtime, spending would increase by about \$0.8 million per year. Because some Capitol Police employees are likely to select compensatory time, the amount of additional overtime pay would be less than \$0.8 million.

#### *Other Applicable Laws*

Some of the laws that H.R. 4822 would apply to the entire legislative branch are laws that already apply to some or all Congressional employers through existing statute or because the employer voluntarily complies. Therefore, they are not likely to result in additional costs. For example, the Americans with Disabilities Act (ADA) and Title VII of the Civil Rights Act, which prohibit employer discrimination based on disability or race, already apply to the Senate, House, CBO, GAO, GPO, LOC, the Architect, and OTA—entities that employ almost all of the 38,000 legislative branch employees. The Family and Medical Leave Act, which guarantees employees a certain amount of unpaid leave without fear of losing their job in order to care for a new baby or a sick relative, also applies now to all these employers.

Other laws apply to some employers now, but would apply to all upon enactment of H.R. 4822. For example, the Rehabilitation Act (which requires the government to contract with vendors that provide employment opportunities for the disabled) only applies to the Senate and the Architect. But because the Rehabilitation Act has been largely superseded by the ADA, which all the employers must already comply with, application of the Rehabilitation Act is not expected to affect employers' practices. The Age Discrimination in Employment Act (ADEA) does not apply currently to the House, CBO, and certain employees of the Architect, but the House has adopted a rule that "personnel actions affecting employment positions in the House . . . shall be made free from discrimination based on . . . age." H.R. 4822 would codify this policy. The bill, however, would provide such employees with improved procedures for seeking redress if they experience discrimination because of age (as well as race, color, national origin, religion, sex, or disability). CBO expects that applying the ADEA would not result in significant additional costs.

6. Pay-as-you-go considerations: None.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: On August 2, 1994, CBO prepared a cost estimate for H.R. 4822, as ordered reported by the House Committee on Rules on July 29, 1994. That bill is similar to the Senate version of H.R. 4822, except that in the House version, the Claims and Judgments Fund in the Treasury would

be available to pay compensation to remedy violations of employees' rights in the event the Congress does not appropriate sufficient funds. Because, under the House version of H.R. 4822, employees would have a permanent right to be paid compensation, CBO estimated an increase in direct spending of \$1 million in 1997 and 1998, which would count for pay-as-you-go purposes. In the Senate version of H.R. 4822, employees' right to compensation under a remedy would be limited to amounts that may be appropriated to the House and Senate settlement funds (or to other legislative branch entities). The Claims and Judgments Fund in the Treasury would be unavailable to pay compensation in the event of insufficient appropriations. Therefore, the funding mechanism to pay compensation would be discretionary, not direct spending, and pay-as-you-go procedures would not apply.

Another difference between the House and Senate versions of H.R. 4822 is that the House version would require that certain employees receive overtime pay under FLSA, resulting in higher outlays for legislative branch agencies, especially the Capitol Police. The Senate version of H.R. 4822 would allow employees to choose between receiving overtime pay, which would increase outlays, or receiving compensatory time, which would give them more time off, but would not increase spending.

On August 2, 1994, CBO prepared a cost estimate for H.R. 4822, as ordered reported by the Committee on House Administration on July 28, 1994. That version of the bill is nearly identical to H.R. 4822 as ordered reported by the House Committee on Rules.

On June 30, 1994, CBO prepared a cost estimate for S. 1824, as ordered reported by the Senate Committee on Rules and Administration on June 9, 1994. That bill is different from the Senate version of H.R. 4822 because it would cover only Senate employees and because it would only apply OSHA and FLSA to the Senate. H.R. 4822 would apply these two laws, as well as six others, to the entire legislative branch and would create a consistent procedure to enforce the laws equally for all legislative branch employees. CBO has estimated a higher cost for H.R. 4822 than for S. 1824.

10. Estimate prepared by: James Hearn.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, August 2, 1994.

Hon. CHARLIE ROSE,  
Chairman, Committee on House Administration,  
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4822, the Congressional Accountability Act.

Because enactment of H.R. 4822 could affect direct spending, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE, AUGUST 2, 1994

1. Bill number: H.R. 4822.

2. Bill title: Congressional Accountability Act.

3. Bill status: As ordered reported by the Committee on House Administration on July 28, 1994.

4. Bill purpose: H.R. 4822 would apply to a host of employee protection laws to legislative branch employees and would create an Office of Compliance to enforce those protections. The office would issue regulations to

apply to the legislative branch, enforce those regulations through inspections, and establish procedures for remedying violations of the regulations. Further, the board of directors of the office would have to prepare a study on whether any other laws affecting employees ought to apply to the legislative branch, and then would issue regulations specifying the way in which such laws would apply. The regulations would take effect 60 days after the board issues them in final form unless the House and Senate pass a concurrent resolution that disapproves them.

In addition, H.R. 4822 lays out a four-step process by which employees can seek redress if their rights under the laws are violated—counseling, mediation, formal complaint and hearing, and judicial review of the process. As an alternative to the formal complaint and hearing before the Office of Compliance, the bill would allow employees to take their case to U.S. district court after the mediation step. The four-step process basically duplicates the process that the Senate already has in place for its employees, and would expand the options available to House employees who currently cannot present their case before an independent hearing board (because House hearing boards have consisted only of House employees) and who have no access to judicial review. Currently, few Congressional employees, and none in the House or Senate, have the option of taking their case to district court (instead of formal complaint and hearing) as the bill would permit.

If the hearing board or district court finds that an employee's rights were violated, it may enter an order for a remedy for the employee. The bill would establish separate funds in the House and the Senate to pay compensation that may be ordered by the remedy.

5. Estimated cost to the Federal Government: CBO estimates that enactment of H.R. 4822 would cost about \$1 million in each of fiscal years 1995 and 1996, and \$4 million to \$5 million annually thereafter for the new Office of Compliance, for additional overtime pay for officers of the Capitol Police, and for agency costs of negotiating with employees' bargaining units. Applying certain laws, such as the Occupational Safety and Health Act (OSHA) and the Fair Labor Standards Act (FLSA), to the entire legislative branch could result in some additional costs, but we do not expect such costs to be substantial. To some extent, the amount of such costs would depend on decisions to be made by the Office of Compliance as to precisely how the laws would apply to legislative branch employees.

#### BASIS OF ESTIMATE

##### *Office of Compliance*

The direct budgetary impact of H.R. 4822 would stem from creating the new office to implement the employee protection laws throughout the Congress. Based on the costs of the Senate Office of Fair Employment Practices and of the Personnel Appeals Board at the General Accounting Office (GAO), CBO estimates that the Office of Compliance would cost about \$1 million in each of fiscal years 1995 and 1996. The cost would be relatively small in these years because the office would be evaluating whether and how to apply certain laws to the Congress. In subsequent years, the cost would increase to \$2 million to \$3 million annually because the office would have to implement enforcement procedures and arrange for OSHA inspections.

##### *OSHA Protections*

H.R. 4822 would extend to all legislative branch employees the protections of OSHA, which requires a workplace free from recog-

nized hazards. It is possible that application of OSHA standards could result in additional costs to remedy any violations, but it is likely that many of the major remedial actions would be done in any event.

*Industrial Settings.* Because most existing OSHA standards apply primarily to industrial workplaces, the employees and workplaces most likely affected by the bill would be those of the Architect of the Capitol. The Architect's office has stated in Congressional hearings that it already strives to comport with all relevant standards. The Architect employs several inspectors who visit all workplaces under the Architect's control to identify problems requiring remedy. Over the past several years, the Architect, sometimes with line-item funding direction from the Congress, has undertaken many building improvement efforts, such as structural repair and electrical rewiring, in buildings of the House, Senate, and Library of Congress.

However, while the Architect might already be identifying big problems, small problems might still arise. In October 1992, GAO, at the request of the Congress, reported on violations of numerous OSHA standards by four employers in the legislative branch, including the Architect and Government Printing Office (GPO). The employers not only agreed that the violations needed correction, but were able to do so at minimal expense. None needed to request additional funding to remedy the violations. Thus, it appears that the formal application of OSHA standards to the activities of the Architect is unlikely to add significantly to costs that would otherwise be incurred.

*Office Settings.* There are few OSHA standards that apply specifically to an office-type workplace, which is the type of environment most commonly found in the Congress. For example, there is no OSHA standard guaranteeing employees a minimum amount of space and quiet in which to work (although there is a General Services Administration guideline governing the maximum amount of space for executive branch employees so agencies do not consume too much space). Therefore, applying OSHA standards to the House, Senate, and other Congressional entities would not, by itself, necessitate construction of additional Congressional office buildings.

The few relevant OSHA standards relate to the proper location and use of wires, extension cords, electrical outlets, file cabinets, and clear walkways to protect employees against tripping, shocks, fires, falling objects, and blocked exits in case of evacuation. Because the Architect does not control the space where these hazards could occur, the regulations issued by the Office of Compliance would likely make the employers—Senators, Representatives, committee chairmen, and agency directors—responsible. Complying with these standards probably would require a change in practices rather than significant additional space.

Future OSHA standards for office-type workplaces could result in additional costs for the Senate. For example, OSHA is currently preparing regulations for ergonomic office equipment and furniture to protect employees against physical ailments resulting from inadequate lighting and positioning. In the absence of specific standards, CBO has no basis for estimating the cost of providing Congressional employees with furniture that would meet future OSHA requirements.

##### *FLSA Protections*

The FLSA requires employers to provide the minimum wage, equal pay, and time-and-one-half for overtime in excess of 40 hours in one week. The impact of FLSA on the appropriated accounts that pay salaries and ex-

penses for Congressional employees ultimately would depend on how the Office of Compliance defines which employees are to be covered by FLSA. The bill would require the office to issue regulations that outline how the protections of the FLSA will apply.

If, for example, the office were to issue regulations similar to the regulations issued in 1991 by the Committee on House Administration (FLSA has applied to House employees since 1989), then FLSA would probably have little budgetary impact. It appears from the House regulations and the amount of overtime paid to House employees in recent years (less than \$200,000 annually) that most House employees are exempt from FLSA and those who are not exempt do not work much overtime. (We do not know whether the result would be different if the Office of Compliance were to adopt the Department of Labor's regulations that apply FLSA to the private sector and to state and local governments.)

One group of employees most likely to receive additional overtime pay under any set of regulations is the Capitol Police. Under current law, officers receive compensatory time for the first four hours worked in excess of 40 hours and then receive overtime for any additional hours. Applying FLSA to the Capitol Police would result in overtime pay for the first four hours of overtime as well, amounting to an estimated \$0.8 million per year.

##### *Federal Labor-Management Relations*

H.R. 4822 would extend to all legislative branch employees the same right that GPO, the Library of Congress (LoC), and executive branch employees currently have to organize, form bargaining units, select a union representative, negotiate with employers, and bring grievances to the Federal Labor Relations Authority (FLRA). (GAO already negotiates with its employees, but its cases do not go to the FLRA.) If employees in the House, Senate, the Architect, CBO, and the Office of Technology Assessment (OTA) were to decide to organize and force their employers to negotiate with various bargaining units, the employers would incur additional staff costs in order to meet their responsibilities under the law. Based on the experience at GPO and LoC, it appears that an agency with several thousands of employees could spend \$200,000 to \$300,000 per year for a lawyer and part of the time of personnel officers who must work with the bargaining units. CBO cannot predict to what extent employees at the affected agencies would decide to take advantage of their opportunity to organize under this law, but even if a few did at each agency, total agency costs could be in the neighborhood of \$1 million annually.

##### *Other Applicable Laws.*

Some of the laws that H.R. 4822 would apply to the entire legislative branch are laws that already apply to some or all Congressional employers through existing statute or because the employer voluntarily complies. Therefore, they are not likely to result in additional costs. For example, the Americans with Disabilities Act (ADA) and Title VII of the Civil Right Act, which prohibit employer discrimination based on disability or race, already apply to the Senate, House, CBO, GAO, GPO, LoC, the Architect, and OTA—entities that employ almost all of the 38,000 legislative branch employees. The Family and Medical Leave Act, which guarantees employees a certain amount of unpaid leave without fear of losing their job in order to care for a new baby or a sick relative, also applies now to all these employers.

Other laws apply to some employers now, but would apply to all upon enactment of H.R. 4822. For example, the Rehabilitation Act (which requires the government to contract with vendors that provide employment

opportunities for the disabled) only applies to the Senate and the Architect. But because the Rehabilitation Act has been largely superseded by the ADA, which all the employers must already comply with, application of the Rehabilitation Act is not expected to affect employers' practices. The Age Discrimination in Employment Act (ADEA) does not apply currently to the House, CBO, and certain employees of the Architect, but the House has adopted a rule that "personnel actions affecting employment positions in the House . . . shall be made free from discrimination based on . . . age." H.R. 4822 would codify this policy. The bill, however, would provide such employees with improved procedures for seeking redress if they experience discrimination because of age (as well as race, color, national origin, religion, sex, or disability). CBO expects that applying the ADEA would not result in significant additional costs.

Finally, some laws that would apply under H.R. 4822 are not currently followed by any Congressional employer. The Worker Adjustment and Retraining Notification Act, which requires employers to give employees certain notice and job placement assistance before closing down a workplace, is not expected to have a significant effect, budgetary or otherwise, on Congressional employers because no mass layoffs are anticipated. The Employee Polygraph Protection Act, which forbids employers from using polygraphs on their employees (except when required by the federal government to protect national security), does not now apply to any legislative branch entity. Because Congressional employers do not now use polygraphs for employees, prohibiting this practice is not likely to have any effect.

6. Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of H.R. 4822 could affect direct spending. Thus, pay-as-you-go procedures would apply to the bill.

The bill would allow a hearing board or a district court, depending on which forum the employee has taken the case, to order a remedy that could include compensation. The bill would establish separate funds in the House and the Senate to pay such compensation (the Senate already has such a fund; the House does not), but it does not authorize an appropriation to the funds nor does it explicitly provide spending authority for the funds. Further, the bill appears to say that all compensation orders, regardless of which legislative entity the employee works for, may be paid from one of the House and Senate funds. The bill does not say what would happen if the affected employer or the two compensation funds do not have sufficient appropriations to pay the compensation. Because the existing Claims and Judgments Fund in the Treasury is available under current law to make payments as ordered by the courts in cases where agencies do not have a source of funding for the payment, it is possible that successful claimants under H.R. 4822 could begin to receive payments from the Claims and Judgments Fund. However, it is unclear what would be the ultimate source of compensation because the bill does not explicitly identify a funding mechanism. CBO expects that the total of such compensation paid to legislative branch employees in some years could be between \$0.5 million and \$1 million. If paid from the Claims and Judgments Fund, these payments would constitute direct spending. The following table summarizes the estimated pay-as-you-go impact of this bill.

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998
Change in outlays .....	0	0	0	1	1
Change in receipts .....	(1)	(1)	(1)	(1)	(1)

<sup>1</sup> Not applicable.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: On June 30, 1994, CBO prepared a cost estimate for S. 1824, as ordered reported by the Senate Committee on Rules and Administration on June 9, 1994. That bill is different from H.R. 4822 because it would cover only Senate employees and because it would only apply OSHA and FLSA to the Senate. H.R. 4822 would apply these two laws, as well as seven others, to the entire legislative branch and would create a consistent procedure to enforce the laws equally on all legislative branch employees. CBO has estimated a larger cost for H.R. 4822 than for S. 1824.

On August 2, 1994, CBO prepared a cost estimate for H.R. 4822, as ordered reported by the House Committee on Rules on July 29, 1994. Because that version of the bill is nearly identical to H.R. 4822 as ordered reported by the Committee on House Administration, CBO's estimate of the cost of the two bills is the same.

10. Estimate prepared by: James Hearn.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

Mr. LIEBERMAN. Mr. President, CBO estimated that both versions, the House-passed last year and the Senate Governmental Affairs Committee, quite similar to S. 2 before us now, would cost about \$1 million for the first 2 years in effect as the office gears up and \$4 to \$5 million in the third, fourth, and fifth years. Much of the cost expected in fiscal years 1997 and 1998 is the cost of working out collective bargaining agreements. So once the cost of that is taken care of, the overall pricetag should dip back down by the beginning of the second 5-year budgetary cycle.

When you look at the total cost figures, I think you also have to realize that the Senate and House offices of the existing Fair Employment Practices Office, which would be supplanted, would be replaced by the independent Office of Compliance created by this bill, will cost almost \$1.2 million in this fiscal year, so that the marginal cost of the bills considered here is even less.

Mr. President, there was some indication on the floor yesterday that the Senate Rules Committee has found the administrative hearing system created for the Senate by the Government Employees Rights Act to be extremely expensive and that this bill would further increase that expense.

I hope that my colleagues on the Rules Committee will agree that the bulk of the costs involved in the administrative hearing process lies in the fact that the GERA, the Government Employees Rights Act, requires three hearing officers to hear any one case. When we drafted this bill, S. 2, and gave employees the right to bring original civil actions in Federal district court, we recognized that the administrative hearing process could be

streamlined because it would no longer be the only legal recourse for an employee to use in addressing grievances that that employee felt he or she had.

Therefore, we create in this bill, S. 2, an administrative hearing system that only requires one hearing officer to hear any case. That surely will reduce the cost of holding any hearing by 67 percent, one hearing officer as opposed to three. I think that my colleagues who raise concerns about the costs of the current administrative hearing system under the Government Employees Rights Act will recognize this change—I hope they will—as a significant cost-saving measure.

Finally, Mr. President, I would like to urge my colleagues to consider the estimated cost of last year's bill in its most expensive year, fiscal year 1998, as a percentage of the legislative branch's annual budget. For fiscal year 1998, which would have been the fourth year in effect if the bill had been enacted last year, Congress' budget will probably be in the neighborhood of \$2.5 billion. Even if this bill did cost \$5 billion in fiscal year 1998 as a percentage of Congress' total operating budget for that year, it would only amount to one-fifth of 1 percent—one-fifth of 1 percent—which is surely not too much to pay to, first, guarantee our employees that they have the same rights as every other employee in America working for private business and, second, for us to adopt the principle of living in the real world, of getting rid of the double standard and of understanding in our own capacity as employers the impact of the laws that we adopt on every other employer in America.

Because this bill makes very few substantive changes from last year's Senate bill, I think it is entirely reasonable to expect that CBO will provide a similarly low score for S. 2, and we can then also assume that the cost of the bill, in its most expensive year, will be an equally small percentage of the legislative branch budget. That really is not too much to ask.

Finally, there is in this another principle which is that we should impose the same laws on ourselves as we do on everybody else because presumably, if we adopt them, we believe they are good laws, that they make sense, that they embrace values that we hold to be real and important for our country.

We should pass this bill with strong enforcement, including the right for claims to be heard in court, because we believe the laws we have passed are right. By passing this bill, therefore, we not only get rid of the double standard and create equity in reality, but we also demonstrate a commitment to the underlying values that we have adopted in these bills.

I thank the Chair and I yield the floor.

THE PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, let me just put out a general call here for those who may have amendments to this bill. We do have time. We have handled several this morning. The votes on those will be stacked until this afternoon after our 2:15 end of the respective party conferences. We will vote on those after that.

I think the distinguished floor manager on the Republican side was going to propound a UC on that at the appropriate time, on how we will go through the votes, so people will know what to expect. Let me just say, on the Democratic side we are the only ones who have amendments left on this bill. For those watching in the offices, or for Senators or staffs who may be listening, I encourage them to get over right now when we have some time here. We have about another hour before we break for our conference lunches. Get over here and get the amendments taken care of.

I heard the majority leader in the opening this morning state we are going to go on this bill until it is done tonight with all the amendments. That puts the heat on our side of the aisle to get the amendments over here and get them taken care of.

So I ask staffs and Senators, if they have amendments, let us not wait until 10 or 11 o'clock tonight to bring them up. Let us get them over here while we have time right now.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, am I correct that the Leahy amendment is pending before this body?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRASSLEY. The amendment by the Senator from Vermont is a very short amendment.

I will read one sentence that is in the amendment:

"No congressional organization or organization affiliated with the Congress may request that any current or prospective employee fill out a questionnaire or similar document in which the person's views on organizations or policy matters are requested."

Of course, this amendment is not germane to this legislation. That is obvious, as most of the amendments we have been dealing with.

The congressional accountability act is designed to make sure that Congress lives under the same laws that we impose upon the private sector. The private sector does not live under the law that the Senator from Vermont seeks to impose on Congress, because a private sector employer may ask prospective employees about their political views.

To be sure, the private sector does not ask these questions very often. Political views are normally irrelevant to the performance of job duties as a brick layer, or a secretary, or an airline pilot. Of course, it may even be poor judgment and poor public relations for any private sector business to ask such a question. But they are looking for people to perform their jobs. They do not care whether they hire Republicans, Democrats, Independents, or anything else. But the point is that it is legal for a private sector employer to ask those questions on political views if they want to. The Leahy amendment would prohibit organizations affiliated with Congress from asking the same question of prospective employees.

I spoke about the private sector, but in the political and Government arena there are varying rules about whether or not this is a legitimate question. Civil service employees and certain other governmental employees cannot be hired or fired for their political views. These tend to be nonpolitical employees who perform nonpolitical Government jobs. These employees have the first amendment right to hold any political views. In one famous case, a protected employee could not be fired for saying, "I hope he dies." That statement was made when she learned of President Reagan being shot in March of 1981. However, the rules are different for political employees in both the legislative and executive branches. Rules that might apply to political views in the executive branch may not hold in regard to inquiry into that point for employees of the legislative branch. Under their constitutional duties, it is quite obvious that the President and Members of Congress must be able to hire people philosophically sympathetic to their agendas. Personnel is policy.

When President Clinton fills a position that is a political appointment, the applicant is asked his or her political views. Whenever any Members of this body hires a legislative staff member, we ask about their views. That is totally appropriate. That does not mean that we practice any form of McCarthyism. If we properly do that as individuals, then, of course, it seems reasonable to me that organizations—the very same organizations that would be prohibited by the Leahy amendment—which we join to help us in doing our jobs act properly if they choose to ask prospective employees about their political views. Members of these organizations are entitled to know the views of potential employees. Members who rely upon the organiza-

tions of Congress to submit potential employees are entitled to know if that employee would be compatible with the legislative agenda of the Member.

The amendment, however, offered by the Senator from Vermont overlooks the essential political requirements of service on Capitol Hill. And it is peculiar, because it would ban employees from completing questionnaires on their views, but it would not affect oral questioning. I do not know whether that is an oversight or not. It would not allow questioning to be asked on a form, but you could have the same questions asked orally. Thus, the amendment would not address, in any real way, the problems—if there is a problem. I do not see it as a problem, but the Senator from Vermont does. It does not, in any practical way, address what he wants to accomplish. He wants to make sure there is not some sort of litmus test for the hiring of employees on Capitol Hill. So he says you cannot ask questions on the questionnaire, but you can ask these questions orally. Moreover, I feel that inquiring about a congressional employee's political view is not in any way a horror. In fact, it is very vital to the functioning of the institution.

In short, the amendment offered by the Senator from Vermont should be rejected. It has nothing to do with congressional coverage. It would harm the ability of Members to do what they were elected to do, and it would not accomplish its stated objective. So I urge that it be rejected.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, has the Pastore rule run its course for the day.

The PRESIDING OFFICER. (Mr. CRAIG.) The Pastore rule has not expired.

Mr. BYRD. It has not?

The PRESIDING OFFICER. It has not.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak out of order for not to exceed 10 minutes.

The PRESIDING OFFICER. Hearing no objection, the Senator is recognized.

#### A MAN OF MANY TALENTS— SENATOR BENNETT JOHNSTON

Mr. BYRD. Mr. President, Madison in the Federalist No. 53 states, in part, as follows:

No man can be a competent legislator who does not add to an upright intention and a sound judgment a certain degree of knowledge of the subjects on which he is to legislate. A part of this knowledge may be acquired by means of information which lie within the compass of men in private as well